

REMARKS

Claims 1 and 3-8 have been amended. Claim 2 has been canceled. Reexamination and reconsideration are respectfully requested.

Applicants gratefully acknowledge the indicated allowability of claims 3, 5, 7 and 8 if rewritten in independent form to include the limitations of the base claim and any intervening claims. Accordingly, Applicants have amended claim 3 into independent form, while including a "target rotation speed command device" and revising the claim to delete the means plus function language. As such, Applicants respectfully submit claim 3 is now in condition for allowance.

Regarding allowable claim 5, this claim has been amended to depend from claim 1 (rather than claim 2) since the features of claim 2 have been incorporated into claim 1. Applicants have also removed the means plus function language. As such, claim 5 is submitted to be in condition for allowance since its base claim, i.e., claim 1, should be allowable as discussed below.

Allowable claims 7 and 8 have been amended to remove the means plus function language. As these claims now depend from allowable independent claim 3, they are submitted to also now be condition for allowance.

In the Office Action, independent claims 1 and 6 were rejected as being anticipated by WO 02/057662 A1, which issued to ICHIMURA (one of the inventors of the present application) and is assigned to the same assignee as the present invention. Dependent claims 2 and 4 were also rejected as being anticipated by ICHIMURA '662. In view of the following remarks and the amendments made with respect to independent claims 1 and 6, Applicants respectfully traverse this rejection.

Applicants' independent claims 1 and 6 recite a travel control device for a hydraulically driven vehicle and a hydraulically driven vehicle, respectively. Both claims 1 and 6 require an overspeed detection device that detects an overspeed state if the motor rotation speed is equal to or greater than a predetermined value. If a command value of the target rotation speed command device is equal to or greater than a predetermined value and an overspeed state in the traveling motor is detected, then a motor overspeed inhibiting device inhibits rotation of the traveling motor until a braking pressure is generated through a switchover at the counterbalance value and the traveling motor is no longer in the overspeed state.

Thus, according to Applicants' invention, an overspeed of the traveling motor due to an increase in a quantity of oil delivered from the hydraulic pump caused by an increase in the engine rotation speed as the vehicle travels

downhill is preventable — even when the target rotation speed command device, such as an accelerator pedal, is operated to a predetermined extent or greater (such as to a full extent), which causes a certain quantity of oil to be delivered from the hydraulic pump. (See Figure 8, for example, ¶¶s 30-33).

In contrast, ICHIMURA '662 relates to a failure detection device for a hydraulic motor of a hydraulically driven vehicle. In that regard, ICHIMURA simply detects a sign of abnormal operation of a hydraulic motor and issues a warning when that it is detected (see col. 1, lines 57-62; claim 1). In that regard, ICHIMURA '662 merely limits an engine rotation speed to an idle rotation speed N_i (see Figure 3) when a motor rotation speed exceeds a predetermined value N_a (see col. 6, lines 49-54). ICHIMURA supplies electrical power to a buzzer 39 and warning lamp 40 when the detected temperature T indicates the sign of a failure of the traveling motor (see col. 6, lines 17-27). No where does ICHIMURA disclose, describe or even suggest the features of the present invention.

Accordingly, Applicants submit claims 1 and 3-8 are now in condition for allowance. An early notice to that effect is solicited.

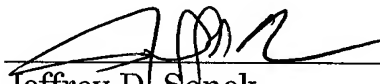
If there are any questions regarding this amendment or the application in general, a telephone call to the undersigned would be appreciated since this should expedite the prosecution of the application for all concerned.

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If necessary to effect a timely response, this paper should be considered as a petition for an Extension of Time sufficient to effect a timely response, and please charge any deficiency in fees or credit any overpayments to Deposit Account No. 05-1323 (Docket #101790.57544US).

Respectfully submitted,

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